

SBTECHNOLOGY LAW

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DATE: May 2, 2003

TO: Examiner Alton N. Pryor

ADDRESS: U.S. Patent and Trademark Office
Washington, D.C.,
20231

SENDER'S DIRECT DIAL NO.: (513) 229-7874

TOTAL NUMBER OF PAGES: 20

ADDITIONAL INFORMATION: Attached are the following: Amendment Or Response After Final Rejection- Transmittal including Certificate of Transmission dated May 2, 2003; Fee Transmittal; Credit Card Patent & Trademark Office Credit Card Payment Form (PTO-2038); Amendment And Response To The Final Office Action; Information Disclosure Citation Form; Cited pages of Practical Handbook of Soybean Processing and Utilization.

FAX TO:

Name

Fax Number

Confirm Number

A. Pryor

703-746-4996

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MASON, OHIO

SMITH BRANDENBURG LTD.

RENO, NEVADA

Attorney's Docket N . DVL-003PAT

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Donald V. Lightcap, Jr. et al.

Serial No.: 09/128,753

Group No.: 1616

Filed: August 4, 1998

Examiner: Alton Pryor

For: COMPOSITION, METHOD, AND APPARATUS FOR PROTECTING
PLANTS FROM INJURY CAUSED BY FROST OR FREEZING
TEMPERATURES

Box AF

Assistant Commissioner for Patents
Washington, D.C. 20231

AMENDMENT OR RESPONSE AFTER FINAL REJECTION - TRANSMITTAL
(37 CFR 1.116)

1. Transmitted herewith is an amendment after final rejection (37 CFR 1.116) for this application.

2. Applicant is

X a small entity. A verified statement:

___ is attached.

X was already filed.

___ other than a small entity.

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

___ is deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on April 1, 2003.

FACSIMILE

X Transmitted by facsimile to the Patent and Trademark Office on May 2, 2003, fax no. 703-746-4996.

05/27/2003 PTUCK1 00000003 09128753

01 FC:2251

55.00 07

Signature: 

Mark F. Smith

(Type or print name of person certifying)

Date: May 2, 2003

3.

EXTENSION OF TERM

NOTE- "Extension Of Time in Patent Cases (Supplement Amendments) - if a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action; an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely filed response placed the application in condition for allowance. Of course if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-5).

NOTE- See 37 CFR 1.645 for extensions of time in interference proceedings, and 37 CFR 1.550(c) for extensions of time in reexamination proceedings.

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply.

(complete (a) or (b), as applicable)

- (a) X Applicant petitions for an extension of time under 37 CFR 1.136
(fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

Extension (months)	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<u>X</u> one month	\$ 110.00	\$ 55.00
<u> </u> two months	\$ 400.00	\$200.00
<u> </u> three months	\$ 920.00	\$460.00
<u> </u> four months	\$1,440.00	\$720.00

Fee \$ 55.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next term, if applicable)

- (a) An extension for months has already been secured and the fee paid therefore of \$ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 55.00

OR

- (b) Applicant believes that no extension of term is required. However this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

4. FEE FOR CLAIMS

The fee for claims (37 CFR 1.16(b)-(d)) has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3)	SMALL ENTITY	OTHER THAN A SMALL ENTITY
CLAIMS REMAINING AFTER PREVIOUSLY AMENDMENT	No. PAID PAID FOR	ADDIT. RATE FEE	ADDIT. OR RATE FEE	
TOTAL	MINUS	=	x 9.00 = x 18.00	\$ 0.00
INDEP	MINUS	=	x 42.00= x 84.00	\$

ADDITIONAL FEE: \$0.00

- * If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.
 - ** If the "Highest No Previously Paid for" IN THIS SPACE is less than 20, enter "20".
 - *** If the "Highest No. Previously Paid for" IN THIS SPACE is less than 3, enter "3"
- The "Highest No. Previously Paid for" (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number or claims originally filed.

WARNING "After final rejection or action (Section 1.113) amendments may be made canceling claims or complying with any requirement of a form which has been made." 37 CFR 1.116(a) (emphasis added).

(complete (c) or (d), as applicable)

(c) X No additional fee for claims is required

OR

(d) _____ Total additional fee for claims required \$0.00

5. FEE PAYMENT

_____ Attached is a check in the sum of \$ 00.00 .

X Charge Mastercard Number, Form PTO-2038 the sum of \$ 55.00 .
Form PTO-2038 is attached.

6.

FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum six-month period has expired before the deficiency is noted and corrected the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7 1-86, (1065 O.G. 31-33).

If any additional extension and/or fee is required, charge Account No. _____.

AND/OR

____ If any additional fee for claims is required, charge Account No. _____.

7.

OTHER DOCUMENTS ATTACHED

____ No other documents are attached.

____ The following documents are attached hereto:

Form 1449.

Reg.No.: 32,437



SIGNATURE OF ATTORNEY

Mark F. Smith

SBTechnology Law

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Mason, Ohio 45040

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Approved for use through 10/31/2002. CMB 0651-0032
 Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
 Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

Complete if Known

Application Number	09/128,753
Filing Date	August 4, 1998
First Named Inventor	Donald V. Lightcap, Jr.
Examiner Name	Alton N. Pryor
Group Art Unit	1616
Attorney Docket No.	DVL-003PAT

TOTAL AMOUNT OF PAYMENT \$55.00

METHOD OF PAYMENT

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:
- Deposit Account Number
- Deposit Account Name
- ☐ Charge Any Additional Fee Required Under 37 CFR §§ 1.16 and 1.17
- ☐ Applicant claims small entity status. See 37 CFR § 1.27
2. ☒ Payment Enclosed:
- ☐ Check ☒ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 710	201 355	Utility filing fee	<input type="text"/>
106 320	206 160	Design filing fee	<input type="text"/>
107 490	207 245	Plant filing fee	<input type="text"/>
108 710	208 355	Reissue filing fee	<input type="text"/>
114 150	214 75	Provisional filing fee	<input type="text"/>

SUBTOTAL (1)

2. EXTRA CLAIM FEES

Extra Claims	Fee from below	Fee Paid
Total Claims <input type="text"/> - 30** = <input type="text"/>	X <input type="text"/>	= <input type="text"/>
Independent Claims <input type="text"/> - 3** = <input type="text"/>	X <input type="text"/>	= <input type="text"/>
Multiple Dependent <input type="text"/>	= <input type="text"/>	= <input type="text"/>

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
103 18	203 9	Claims in excess of 20
102 80	202 40	Independent claims in excess of 3
104 270	204 135	Multiple dependent claim, if not paid
109 80	209 40	** Reissue independent claims over original patent
110 18	210 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) \$0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	<input type="text"/>
127 50	227 25	Surcharge - late provisional filing fee or cover sheet	<input type="text"/>
139 130	139 130	Non - English specification	<input type="text"/>
147 2,520	147 2,520	For filing a request for ex parte reexamination	<input type="text"/>
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	<input type="text"/>
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	<input type="text"/>
115 110	215 55	Extension for reply within first month	<input type="text"/>
116 390	216 195	Extension for reply within second month	<input type="text"/>
117 690	217 445	Extension for reply within third month	<input type="text"/>
118 1,390	218 895	Extension for reply within fourth month	<input type="text"/>
128 1,880	228 945	Extension for reply within fifth month	<input type="text"/>
119 310	219 155	Notice of Appeal	<input type="text"/>
120 310	220 165	Filing a brief in support of an appeal	<input type="text"/>
121 270	221 135	Request for oral hearing	<input type="text"/>
138 1,510	138 1,510	Petition to institute a public use proceeding	<input type="text"/>
140 110	240 55	Petition to revive - unavoidable	<input type="text"/>
141 1,240	241 620	Petition to revive - unintentional	<input type="text"/>
142 1,240	242 620	Utility issue fee (or reissue)	<input type="text"/>
143 440	243 220	Design issue fee	<input type="text"/>
144 600	244 300	Plant issue fee	<input type="text"/>
122 130	122 130	Petitions to the Commissioner	<input type="text"/>
123 50	123 50	Processing fee under 37 CFR § 1.17(q)	<input type="text"/>
126 180	126 180	Submission of Information Disclosure Statement	<input type="text"/>
581 40	581 40	Recording each patent assignment per property (times number of properties)	<input type="text"/>
146 710	246 355	Filing a submission after final rejection (37 CFR § 1.129(a))	<input type="text"/>
149 710	249 355	For each additional invention to be examined (37 CFR § 1.129(b))	<input type="text"/>
179 710	279 355	Request for Continued Examination (RCE)	<input type="text"/>
189 900	189 900	Request for expedited examination of a design application	<input type="text"/>

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) \$55.00

SUBMITTED BY

Name (Print/Type)	Mark F. Smith	Registration No. (Attorney/Agent)	32,437	Telephone	513-229-7814
Signature		Date	May 2, 2003		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.